IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

MFA.No. 546 of 2003()

AGAINST THE ORDER IN WCC.203/1997 of W.C.C.,THRISSUR
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APPELLANT: 2ND RESPONDENT:

NATIONAL INSURANCE COMPANY LTD.,
REPRESENTED BY ITS DEPUTY MANAGER,
KOCHI REGIONAL OFFICE - T.P. CELL,
M.G. ROAD, ERNAKULAM.

BY ADV. SRI.P.R.RAMACHANDRA MENON

RESPONDENTS: CLAIMANTS 1 TO 5 & 1ST RESPONDENT RESPECTIVELY:
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1. KANCHANA, W/O. LATE CHANDRAN,
POOMKULAMBU, ERIMAYAOOR P.O.,
ALATHUR RALUK, PALAKKAD.

2. MINI (MINOR), D/O. LATE CHANDRAN,
REPRESENTED BY HER MOTHER - KANCHANA, DO. DO.

3. MANOJ (MINOR), S/O. LATE CHANDRAN,
REPRESENTED BY HIS MOTHER-KANCHANA, DO. DO.

4. KANDAN, S/O. CHAMY,
POOMKULAMBU, DO. DO.

5. MEENAKSHI, W/O. KANDAN, DO. DO.

6. AYSHA, D/O. KOYAMU, MARUTHAMPADOM,
CHIMPUKKAD P.O., KUTHANUR VILLAGE,
ALATHUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.C.RAGHAVAN
SRI.LIJU. M.P

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K. BASHEER, JJ

M.F.A. 546/2003

Dated this the 23rd day of October, 2007

JUDGMENT

Insurance Company is the appellant. Only question to be decided in this appeal is whether the claimant, who was a driver of the tractor, was having a valid licence. Learned counsel appearing for the Insurance Company submitted that the driver was not having a valid licence with badge. Counsel also submitted that Ext.M5 report was submitted by the Investigating Officer and the same was not properly considered by the Tribunal. Further it was also stated that A1 to A5 police records would reveal that there was no valid licence with the badge.

2. Learned counsel appearing for the owner of the vehicle on the other hand contended that Insurance Company had not taken any steps to examine the investigators or to adduce further evidence to show that there was no valid licence with badge.

3. Considering the facts and circumstances of the case we feel it would be appropriate that an opportunity

be given to the parties to adduce further evidence against the question, whether there was a valid licence with badge for the driver on the date of the accident. To enable the parties to do so, we are inclined to set aside the order of the Commissioner for workmen's compensation and remand the matter back to the Tribunal to examine whether the driver of the tractor was having a valid licence with the badge on the date of the accident. We also direct the Company to deposit the compensation as awarded by the Tribunal, if not already deposited, within one month. It is open to the claimant to move the petition for releasing the amount.

With the above directions, this appeal is disposed of.

K.S.RADHAKRISHNAN
Judge

A.K. BASHEER
Judge

mrcs